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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

STACY DAVIS,

Defendant and Appellant.

E061071

(Super.Ct.No. RIF1301582)

OPINION

APPEAL from the Superior Court of Riverside County. Helios (Joe) Hernandez,
Judge. Affirmed.

Leslie A. Rose, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

I

INTRODUCTION

On March 25, 2013, an amended felony complaint charged defendant and appellant Stacy Danielle Davis and co-defendant Laquanique Vonshealatrice Henderson with simple battery under Penal Code¹ section 242, a misdemeanor (count 3).² The complaint also alleged that the crime was committed for the benefit of a criminal street gang, within the meaning of section 186.22, subdivision (d), making the simple battery under section 242 a felony for sentencing purposes. Defendant pled not guilty and denied the special allegation.

On March 6, 2014, defendant withdrew her not guilty plea and entered into a negotiated plea agreement. Defendant pled guilty to violating section 242 and admitted the accompanying gang allegation. The parties agreed that defendant would be granted probation, with 45 days local custody. As a condition of the plea, defendant waived her right to appeal.

Defendant was sentenced immediately. She was granted probation with various terms and conditions, and required to register as a gangster under section 186.30.

On March 24, 2014, the court granted defendant's request to convert the straight time order to work release.

¹ All statutory references are to the Penal Code unless otherwise specified.

² The complaint charged co-defendants David Lomeli and Rozell Hale with counts 1 and 2; defendant was not charged in counts 1 and 2. Therefore, counts 1 and 2 are not relevant to this appeal.

On April 24, 2014, defendant filed a timely notice of appeal, indicating a challenge to the sentence as grounds for appeal. On May 2, 2014, an amended notice of appeal was filed, indicating a challenge to the validity of the plea as an additional ground for appeal. Defendant also requested a certificate of probable cause, which the trial court denied.

II

STATEMENT OF FACTS

Defendant admitted that she and co-defendant Laquanique Henderson willfully and unlawfully used force and violence upon the person of Jazmin Cheer on February 21, 2013, in violation of section 242. Defendant also admitted that she committed the offense for the benefit and in association with a criminal street gang within the meaning of section 186.22, subdivision (d).

III

ANALYSIS

After defendant appealed, and upon her request, this court appointed counsel to represent her. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but she has not done so. In her declaration in support of a request for certificate of probable cause, however, defendant wrote:

“I would greatly appciate [sic] a appiel [sic] because I did not know what i was pleaing [sic] to. I have a problem understanding things. I don’t deserve a felony gang enhancemet [sic]. I am not a gang member i am a single mother of to [sic]. My kids need a mother. I need to provide for my kids. So please give me this apeal [sic]. I lived in Riverside my whole life. I know everyone. I would really appciate [sic] if you give me a chance. Thank you.”

At the March 6, 2014, hearing wherein defendant pled guilty, the following exchange took place:

“THE COURT: Okay. To the charge in Count 3, a violation of 242 of the Penal Code, a misdemeanor - - it says misdemeanor right here.

“[THE PROSECUTOR]: It’s a misdemeanor, but with the gang allegation, it becomes a felony for sentencing.

“THE COURT: So this 242 misdemeanor that’s going to become a felony because of this gang allegation, how do you plead on that, guilty or not guilty?

“THE DEFENDANT: Guilty.

“THE COURT: Then I’m asking you about this additional allegation. Pursuant so [sic] 186.22, sub (d) - -

“[THE PROSECUTOR]: Sub (d), as in dog.

“THE COURT: D as in -- yeah, as in dog, that you committed the offense for the benefit of or in association with a criminal street gang; is that correct?”

“THE DEFENDANT: Yes.

“THE COURT: This is a yes or no.

“THE DEFENDANT: Yes.”

Pursuant to this record, the court clearly asked defendant whether she committed the offense for the benefit of or in association with a criminal street gang. She replied “Yes” twice.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

IV

DISPOSITION

The judgment is affirmed.

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RICHLI
J.

We concur:

McKINSTER
Acting P. J.

CODRINGTON
J.